

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:13-cr-00079-MR-DLH-4

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) ORDER
)
JEFFREY KIRKLAND,)
)
 Defendant.)
)

THIS MATTER is before the Court *sua sponte*.

I. PROCEDURAL BACKGROUND

On December 3, 2013, the Defendant was charged in a multi-defendant Bill of Indictment with one count of conspiracy to possess with intent to distribute a quantity of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and one count of possession with intent to distribute a quantity of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). [Doc. 3]. At his arraignment on January 15, 2014, the Defendant was released on conditions. [See Doc. 80]. The Defendant remained on pretrial release until January 2015, when his case was called for trial. After four days of testimony, the jury found the Defendant guilty of the conspiracy charge and

acquitted him of the possession charge. [Doc. 236]. The Court ordered the Defendant to be taken into custody pursuant to 18 U.S.C. § 3143(a)(2).

On January 20, 2015, Defendant's counsel filed a motion for acquittal under Rule 29 of the Federal Rules of Criminal Procedure. [Doc. 239].

II. DISCUSSION

A defendant who has been found guilty of an offense for which a maximum term of imprisonment of ten years or more is prescribed by the Controlled Substances Act must be detained pending sentencing unless the Court finds: (1) that there is a substantial likelihood that a motion for acquittal or new trial will be granted or that counsel for the Government has recommended that no term of imprisonment be imposed; and (2) that there is clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community. 18 U.S.C. § 3143(a)(2).

Having reviewed the Defendant's motion pursuant to Rule 29, the Court finds that there is a substantial likelihood that the Defendant's motion for acquittal will be granted. The Court will therefore refer this matter to the Magistrate Judge for a hearing to determine whether the Defendant is likely to flee or pose a danger to any other person or the community. See 18 U.S.C. § 3143(a)(2).

IT IS, THEREFORE, ORDERED that this matter is referred to the Honorable Dennis L. Howell, United States Magistrate Judge, for a release hearing pursuant to 18 U.S.C. § 3143(a)(2).

IT IS SO ORDERED.

Signed: January 21, 2015



Martin Reidinger
United States District Judge

